

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

AUDREY SULLIVAN	§	
Plaintiff,	§	
	§	CIVIL ACTION NO. 1:15-cv-49
v.	§	
	§	
ST. DAVID'S HEALTHCARE	§	
PARTNERSHIP, L.P., LLP and	§	
JENNIFER MUSHTALER, M.D.	§	
Defendant.	§	

PLAINTIFF'S COMPLAINT AND JURY DEMAND

Plaintiff AUDREY SULLIVAN files suit against Defendants ST. DAVID'S HEALTHCARE PARTNERSHIP, L.P., LLP and JENNIFER MUSHTALER, M.D., and would respectfully show the Court and Jury the following:

I.
PARTIES

1. Plaintiff AUDREY SULLIVAN, resides in California.
2. Defendant JENNIFER MUSHTALER, M.D. may be served with process by serving her at Capital Ob/Gyn Associates of Texas, 12201 Renfert Way, Ste. 325, Austin, Texas 78758.
3. Defendant St. David's Healthcare Partnership, L.P., LLP (hereafter "St. David's"), may be served with process by serving its registered agent C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

II.
VENUE AND JURISDICTION

4. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332.
5. Venue of this cause is proper in the Western District pursuant to 28 U.S.C §1332 because a substantial portion of the events or omissions giving rise to Plaintiff's claims occurred within

the Western District of Texas, because the parties are diverse, and because the damages at issue exceed \$75,000.

III.
NOTICE REQUIREMENT

6. Written notice of this claim has been given pursuant to Texas Civil Practice & Remedies Code §74.0151 to Defendants and Plaintiff agrees to provide evidence of such notice if the Judge of this Court so requires.

IV.
FACTS

7. On August 26, 2013, Audrey Sullivan went into labor.

8. Her OB/GYN was Dr. Mushtaler and the hospital where she delivered her baby was St. David's North Austin Medical Center.

9. In the course of the delivery and aftercare, Dr. Mushtaler and the nurses on duty left a foreign body, a vaginal pack/sponge, inside of her.

10. This caused her unbelievable pain, led to an infection, and jeopardized her health and well-being.

11. Due to complications from the delivery, Ms. Sullivan's baby needed to be taken to Dell Children's Medical Center after they had left St. David's.

12. On September 3, 2013, Ms. Sullivan could no longer stand the agonizing pain. Despite worry and concern for her baby, Ms. Sullivan had to be separated from her baby who was at the hospital, and taken to the emergency room at St. David's.

13. There, doctors determined that a foreign body had, in fact, been left in Ms. Sullivan.

14. As a proximate consequence of the above negligence, Plaintiff Audrey Sullivan suffered significant damages.

V.
CAUSES OF ACTION

A. Medical Malpractice Against Defendants

15. The injuries and damages to Audrey Sullivan were directly and proximately caused by the negligent acts and/or omissions of Jennifer Mushtaler, M.D., and the nurses treating her while she was delivering her child at St. David's North Austin Medical Center.

16. Each of these nurses who treated Ms. Sullivan, were employed by and acted in the course and scope of their employment with St. David's. Therefore, St. David's is vicariously liable for their negligent acts.

17. More particularly, the conduct of Dr. Jennifer Mushtaler fell below the applicable standard of care due to one or more of the following acts or omissions, among others, which caused Plaintiff's suffering:

(1) Failing to take or order appropriate precautions following the delivery of Ms. Sullivan's child; and

(2) Failing to remove and/or leaving a foreign body inside Ms. Sullivan.

18. Likewise, the nurses caring for Ms. Sullivan at St. David's, also fell below the standard of care in the following ways:

(1) Failing to remove and/or leaving a foreign body inside Ms. Sullivan; and

(2) Failing to follow proper hospital procedures following the delivery.

19. As each of the foregoing negligent acts and/or omissions was a direct and proximate cause of Plaintiff's injury, Plaintiff claims the following damages:

VI.
DAMAGES

20. As a direct and proximate result of the above-described negligence, Audrey Sullivan suffered significant damages.

21. Plaintiff Audrey Sullivan has incurred damages including, but not limited to, the following:

- (1) past and future physical pain and suffering;
- (2) past and future mental anguish;
- (3) past and future medical expenses;
- (4) past and future impairment; and
- (5) loss of consortium.

VII.
JURY DEMAND

22. Plaintiff respectfully requests that this cause be tried before a jury of her peers and herein submits the required fee for such request.

VIII.
PRAYER FOR RELIEF

23. Plaintiff prays that Defendants be cited to appear herein as required by law and that on final hearing hereof, Plaintiff be awarded judgment against Defendants, for:

- (1) Compensatory damages;
- (2) Prejudgment and post judgment intent at the highest rate provided by law;
- (3) Costs of suit; and
- (4) All other relief to which Plaintiff is justly entitled, either at law or in equity.

Respectfully submitted,

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